

FILED & ENTERED

FEB 23 2012

CLERK U.S. BANKRUPTCY COURT  
Central District of California  
BY sumlin DEPUTY CLERK

UNITED STATES BANKRUPTCY COURT  
CENTRAL DISTRICT OF CALIFORNIA  
LOS ANGELES DIVISION

In re:

LA SLAUSON SWAPMEET INC.,

Debtor(s).

Case No.: 2:12-bk-10801-NB

CHAPTER 11

**ORDER DENYING APPLICATION FOR  
HEARING ON SHORTENED NOTICE (DKT.  
56) AND SETTING HEARING ON MOTION  
FOR RECONSIDERATION (DKT. 55)**

Date: March 20, 2012  
Time: 2:00 PM  
Courtroom: 1545

On February 10, 2010, the Court entered an order (Dkt. 33) granting the motion of creditors Kayla Properties, LLC, Ethan 26, LLC, Leader Group Enterprises, LLC, Pacific Star Properties, LLC, Wall Street Enterprises, LLC and SSR, LLC (collectively, "Creditors") for relief from the automatic stay to pursue an unlawful detainer action in state court subject to the 14-day stay provided by Fed. R. Bankr. P. 4001(a)(3) (the "RFS Order"). The corresponding memorandum decision (Dkt. 32)<sup>1</sup> explained that relief was granted because (1) Creditors made a *prima facie* showing that the subject lease had already terminated pre-petition, which Debtors did not sufficiently rebut, and (2) the

<sup>1</sup> Capitalized terms not otherwise defined herein have the meanings set forth in the memorandum decision.

1 debtor's alleged setoffs and other financial allegations were not sufficient to show that  
2 all deficiencies could be cured or that the debtor could provide Creditors with adequate  
3 protection.

4 On February 22, 2012, the debtor filed a motion for reconsideration of the RFS  
5 Order under Fed. R. Civ. P. 60(b) (incorporated by Fed. R. Bankr. P. 9024) (the  
6 "Reconsideration Motion") and supporting papers (Dkt. 55-61), including an application  
7 for an order shortening time for a hearing on the Reconsideration Motion (the "OST  
8 Application"). The Reconsideration Motion sets forth assertions of irreparable harm and  
9 colorable, though not necessarily persuasive, arguments (a) that the lease might not  
10 have terminated, or might have been reinstated, as of the date on which Debtors filed  
11 their voluntary petitions commencing their bankruptcy cases, and (b) that the dollar  
12 amount of Setoffs might be sufficient to equal or exceed the various dollar amounts that  
13 Creditors have alleged are owing.

14 IT IS ORDERED that, pending the conclusion of the hearing on the  
15 Reconsideration Motion, the RFS Order is modified as follows: (a) the automatic stay of  
16 11 U.S.C. § 362(a) is lifted as of close of business on Friday February 24, 2012, to the  
17 extent of permitting the parties to proceed with litigating the merits of their disputes in  
18 state court, but (b) the automatic stay shall continue to the extent of preserving the  
19 status quo regarding occupancy of the property and collection of rents from subtenants.

20 IT IS FURTHER ORDERED that, to protect Creditors' interests pursuant to 11  
21 U.S.C. § 361, Debtors are prohibited from undertaking any use of property of the estate  
22 unless counsel for Debtors provide not less than 72 hours' prior notice via email to  
23 counsel for Creditors of each proposed use, and in the event of a dispute regarding  
24 what expenditures are appropriate, counsel for all parties are directed to meet and  
25 confer regarding a date and time for a telephonic hearing and then telephone chambers  
26 to arrange such hearing. Debtors shall preserve and protect any property that they are  
27 not authorized to use pursuant to this paragraph, and shall hold such property for  
28 turnover to Creditors, or such other disposition as the Court may order in future. In

1 addition, Debtors shall provide Creditors with accountings, on Wednesday of each  
2 week, which shall include but shall not be limited to printouts of their online bank  
3 records (or the equivalent, if such printouts are not available).

4 IT IS FURTHER ORDERED that in view of the foregoing modifications to the  
5 RFS Order there does not appear to be sufficient cause to hear the Reconsideration  
6 Motion on an expedited basis so the Application is denied.

7 IT IS FURTHER ORDERED that a hearing on the Motion will be held at the  
8 above-captioned time and place.

9 IT IS FURTHER ORDERED that any opposition to the Motion must be filed and  
10 served on the debtor and debtor's counsel no later than **March 6, 2012.**

11 IT IS FURTHER ORDERED that any reply to opposition must be filed and served  
12 on the opposing party no later than **March 13, 2012.**

13 IT IS FURTHER ORDERED that the debtor must serve notice of the hearing and  
14 a copy of this Order on the U.S. Trustee, the Creditors, and the debtor's 20 largest  
15 unsecured creditors via U.S. mail no later than **February 24, 2012 at 5:00 p.m.**

16 IT IS FURTHER ORDERED that the debtor should file a proof of service for the  
17 notice and this order no later than two days before the hearing

18 ###  
19  
20  
21  
22  
23  
24  
25

26 DATED: February 23, 2012

27  
28  
  
\_\_\_\_\_  
United States Bankruptcy Judge

**NOTE TO USERS OF THIS FORM:**

- 1) Attach this form to the last page of a proposed Order or Judgment. Do not file as a separate document.
- 2) The title of the judgment or order and all service information must be filled in by the party lodging the order.
- 3) **Category I.** below: The United States trustee and case trustee (if any) will always be in this category.
- 4) **Category II.** below: List **ONLY** addresses for debtor (and attorney), movant (or attorney) and person/entity (or attorney) who filed an opposition to the requested relief. DO NOT list an address if person/entity is listed in category I.

**NOTICE OF ENTERED ORDER AND SERVICE LIST**

Notice is given by the court that a judgment or order entitled (*specify*) **ORDER DENYING APPLICATION FOR HEARING ON SHORTENED NOTICE (DKT. 56) AND SETTING HEARING ON MOTION FOR RECONSIDERATION (DKT. 55)** was entered on the date indicated as "Entered" on the first page of this judgment or order and will be served in the manner indicated below:

**I. SERVED BY THE COURT VIA NOTICE OF ELECTRONIC FILING ("NEF")** – Pursuant to controlling General Order(s) and Local Bankruptcy Rule(s), the foregoing document was served on the following person(s) by the court via NEF and hyperlink to the judgment or order. As of 2/23/12, the following person(s) are currently on the Electronic Mail Notice List for this bankruptcy case or adversary proceeding to receive NEF transmission at the email address(es) indicated below.

- Gene W Choe maria@choicelaw.org
- Russell Clementson russell.clementson@usdoj.gov
- Joseph A Eisenberg jae@jmbm.com
- Alexis M McGinness amm@jmbm.com, vr@jmbm.com;fc3@jmbm.com
- United States Trustee (LA) ustpreion16.la.ecf@usdoj.gov

☐ Service information continued on attached page

**II. SERVED BY THE COURT VIA U.S. MAIL:** A copy of this notice and a true copy of this judgment or order was sent by United States Mail, first class, postage prepaid, to the following person(s) and/or entity(ies) at the address(es) indicated below:

**Debtor:**

LA Slauson Swapmeet Inc  
1600 W Slauson Avenue  
Los Angeles, CA 90047

☐ Service information continued on attached page

**III. TO BE SERVED BY THE LODGING PARTY:** Within 72 hours after receipt of a copy of this judgment or order which bears an "Entered" stamp, the party lodging the judgment or order will serve a complete copy bearing an "Entered" stamp by U.S. Mail, overnight mail, facsimile transmission or email and file a proof of service of the entered order on the following person(s) and/or entity(ies) at the address(es), facsimile transmission number(s), and/or email address(es) indicated below:

☐ Service information continued on attached page